IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2119 OF 1999

Hariram Vishnu Bhoir
age 61 years,
Occ: Business, R/o.
191, Khairane,
Taluka Thane,
District - Thane ...Applicant.

V/s

1. Ramcahndra Devlya Thakur
R/o. Koprigaon, Sector 26-A,
Vashi, Post APMC Marekt,
Thane [Navi Mumbai]

2. The State of Maharashtra ...Respondents.

Mr. M.S. Mohite for the applicant.

Mr. S.D. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 12th January, 2006

ORAL JUDGMENT:

1. Heard the learned counsel for the applicant and the learned APP for the State. None appears for respondent No.1. though he is served.

2. The applicant is challenging the order passed by the Judicial Magistrate, First Class, Vashi. By the said order J.M.F.C., Vashi has acquitted the accused on the ground that the prosecution has failed to secure attendance of the witnesses.

3. The learned Counsel appearing on behalf of the applicant has invited my attention to the roznama. The roznama discloses that the accused had remained absent right from the first date and only after the non-bailable warrant was issued, he remained present on one date i.e. 12/11/1997 and on the next date also he remained absent and the learned J.M.F.C. acquitted him on the ground that the witnesses did not remain present.

4. In my view, the trial court ought to have given a reasonable opportunity to the prosecution to examine the witnesses.

5. The Criminal Application is allowed. The impugned order is set aside. The Trial Court is directed to decide the case on merits as expeditiously as possible. The Trial Court shall issue fresh notices to the witnesses.

V.M. KANADE, J.